

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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INDUSTRIAL ENTERPRISES OF :
AMERICA, INC., :

Plaintiff, :

vs. :

TRINITY BUI and TRINITY FINANCING :
INVESTMENTS CORPORATION, :

Defendants. :

: 07 Civ. 3734 (KMK) (DCF)

: **DEFENDANTS' ANSWER WITH**
: **AFFIRMATIVE DEFENSES**

-----X
Defendants TRINITY BUI and TRINITY FINANCING INVESTMENTS

CORPORATION, by their attorney Nelson M. Stern for their answer allege as follows:

1. Deny each and every allegation contained in Paragraphs 14-15, 29, 30-34, 36-37, 45-55, and 58-67.
2. Deny knowledge or information sufficient to form a belief as to the truth of any of the allegations contained in Paragraphs 1-2, 7-12, 13, 16-19, 20-27, 28, 35, 38-40, 41-43 and 57.
3. Admit the allegations contained in Paragraphs 3-6, but corrects that TRINITY BUI is the sole shareholder of TRINITY FINANCING INVESTMENTS CORPORATION.
4. The above is incorporated as to the allegations in Paragraphs 44 and 56.

AFFIRMATIVE DEFENSE 1

5. The Complaint fails to state facts sufficient to state a cause of action against Defendants.

AFFIRMATIVE DEFENSE 2

6. The Complaint, and each purported cause of action contained therein, is barred, in

whole or in part, by Plaintiff's lack of standing.

AFFIRMATIVE DEFENSE 3

7. The Complaint, and each purported cause of action contained therein, is barred and/or rendered moot, in whole or in part, by Defendants filing of their curative Schedule 13GA

AFFIRMATIVE DEFENSE 4

8. The Complaint, and each purported cause of action contained therein, is barred by applicable statutes of limitation.

AFFIRMATIVE DEFENSE 5

9. The Complaint, and each purported cause of action contained therein, is barred in whole or in part under the doctrine of unclean hands and therefore Plaintiff is estopped from seeking equitable relief.

AFFIRMATIVE DEFENSE 6

10. The Complaint, and each purported cause of action contained therein, is barred, in whole or in part, by the doctrines of estoppel and/or waiver.

AFFIRMATIVE DEFENSE 7

11. Plaintiff has failed to properly mitigate any damages.

AFFIRMATIVE DEFENSE 8

12. There is no private right action for violation of Section 13 of the Act. Edelson v. Ch'len 2005 App. LEXIS 7527 (7th Cir. April 25, 2005).

WHEREFORE, Defendants respectfully request that the Court:

- 1) Dismiss the complaint with prejudice;
- 2) Award Defendants attorney's fees, litigation expenses, and costs of suit;
- c. Award Defendants such damages as are permitted by applicable law;

d. Grant such other and further relief as the Court deems just and proper.

Dated: New York, New York
September 5, 2007

Respectfully Submitted,

LAW OFFICE OF NELSON M. STERN

By: **Nelson M. Stern**

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And

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Of-Counsel

TO:
Mitchell J. Geller
Holland & Knight, LLP
195 Broadway
New York, NY 10007

*Attorney for Plaintiff Industrial
Enterprises of America, Inc.*

Affirmation of Service

I, the undersigned attorney, declare and state:

I am a citizen of the United States, over the age of eighteen years, and not a party to this action. On the dated stated below, I served the following document on the following persons:

Answer

Mitchell J. Geller
Holland & Knight LLP
195 Broadway
New York, NY 10007

Attorney for Defendants

 X BY FIRST CLASS MAIL - I deposited each this day in a sealed envelope with suitable postage in a collection box of the United States Postal Service in New York City.

 BY FACSIMILE: I caused said documents to be transmitted by Facsimile machine to the number shown after the address listed above.

I declare and, certify under penalty of perjury under the laws of the State of New York that the foregoing is true and correct and that this affirmation was executed this date at New York, NY.

Date: September 5, 2007

Nelson M. Stern

Nelson M. Stern

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